

UNIONDALE UNION FREE SCHOOL DISTRICT

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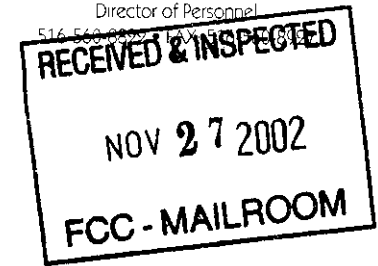
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November 26, 2002



Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
Office of the Secretary
9300 East Hampton Drive
Capitol Heights, Maryland 20743

RE: Appeal of Universal Service Administrator's Decision
with respect to Uniondale UFSD

97-21

Dear Ms. Dortch:

Attached are an original and four copies of an appeal by Uniondale Union Free School District of a decision of the Universal Service Administrator. By this appeal, we are asking the Commission to review the SLD's reduction of Uniondale's funding for FY 2001 as being inconsistent with the "normal 120-day rule" applied in other circumstances to the Form 486 filing deadline.

A receipt copy is also enclosed for our records. Please stamp it "Received" and return it to us in the self-addressed stamped envelope.

Very truly yours,

Stephen R. Draper
Asst. Supt. for Business Affairs

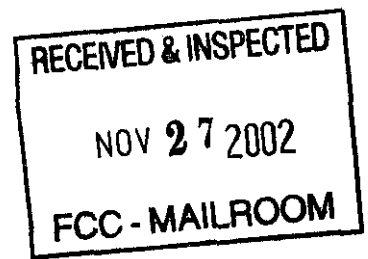
Attachments: Uniondale UFSD Appeal: original and copies.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554



In the matter of:)	
)	
Request for Review of Decisions)	Docket Nos. 97-21 and 96-45
of the Universal Service Administrator)	

Ref.:	Applicant Name:	Uniondale Union Free School District
	Entity Number:	123833
	Form 471 Application Number:	263017
	Funding Request Numbers:	664342,664343,664344,664345,664341

In this appeal, Uniondale Union Free School District asks the Commission to review the appeal decision of the Schools and Libraries Division ("SLD") that confirmed a reduction in Uniondale's E-rate funding for the 2001-2002 funding year and to direct the SLD to revise each adjusted Service Start Date to a date 120 days prior to the ultimate Form 486 postmark date.

Background:

Uniondale's E-rate application was funded by the SLD in a Funding Commitment Decision Letter ("FCDL") dated July 23, 2001 (Wave 1). A Form 486 for the associated funding requests was prepared on September 1, 2001, and was believed to be mailed to the SLD shortly thereafter (although a Return Receipt was not requested).

Uniondale did not receive a Form 486 Notification Letter for this submission, but thought little about it, in part because of the known Form 486 processing delays experienced by the SLD in the fall of 2001. When Uniondale began preparing six-month BEARs for submission in February 2002, it found that the SLD had no record of a previously filed Form 486. Uniondale therefore submitted – or resubmitted – another Form 486 postmarked March 5, 2002. The SLD's associated Form 486 Notification Letter, dated April 12, established a revised Service Start Date of 3/5/2002 and reduced Uniondale's funding by two-thirds.

Uniondale appealed the SLD reduction in a letter dated April 23, 2002. In an Administrator's decision on Appeal dated October 21, 2002, the SLD denied Uniondale's appeal in full.

In this appeal, Uniondale asks the Commission to review the SLD's policy of resetting Service Start Dates to the postmarked dates of late filed Form 486s for the subset of FY 2001 applicants who missed the first of a series of Form 486 deadlines.

Arguments for a Consistent Late Form 486 Filing Policy:

In FY 2001, the implementation of CIPA rules led to the establishment of a series of confusing Form 486 deadlines covering a variety of situations based on service start dates and FCDL dates. Formal instructions for the Form 486 include three separate pages, covering five different situations, discussing filing deadlines for FY 2001 alone.

As a penalty for missing a Form 486 filing deadline, the SLD revised the affected applicant's funding commitments by resetting Service Start Dates and reducing the funding amounts accordingly. Two completely different policies were used to reset Service Start Dates depending upon whether the applicant's Form 486 deadline was October 28, 2001, or later. In particular:

1. If an applicant missed the October 28th deadline, Service Start Dates were reset to the postmarked date of the Form 486 as ultimately filed.
2. If an applicant missed any deadline after October 28th, Service Start Dates were reset to 120 days prior to the postmarked date of the Form 486 as ultimately filed.

As such, the FY 2001 policy, as applied to applicants subject to the October 28, 2001 deadline (such as Uniondale) is discriminatory.

For most FY 2001 applicants, specifically schools with original Service Start Dates of July 1, 2001, the impact of these two different policies was that applicants funded in Waves 1-6 were held to a much tighter Form 486 deadline and were subjected to more severe penalties for missing that deadline than were applicants funded beyond Wave 6 with later deadlines. In the former case, with funding commitment letters dated between July 21 and October 1, schools were given less than 120 days to submit their Form 486s and received no grace period if the October 28th deadline was missed. In the latter case, applicants were given a full 120 days from their funding commitment dates and 120 day grace periods if the deadlines were missed.

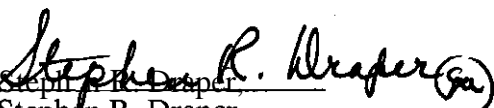
Note that the SLD subsequently eliminated this discriminatory practice for libraries in FY 2001 (with regard to the "Category 4" situations) and for all applicants in FY 2002. The new policy for these applicants uniformly uses what is now designated as the "normal 120-day rule" and which matches the post-October 28th deadline policy of the FY 2001 (as indicated in policy #2 above).

The FY 2001 school applicant policy of dealing with the missed October 28th deadline has one other problem. It potentially allowed applicants to “game the system” – an unattractive attribute of any policy. If, for example, when Uniondale recognized that its original Form 486 had not been received, it had voluntarily changed all of its Service Start Dates* from July 1, 2001, to November 5, 2001, before finally filing its Form 486 on March 5, 2002, then the 120-day deadline would have been met. While it is true, if this were the case, that funding for recurring services would have been readjusted for a November 5th start date, this would have provide eight months of funding rather than the four months reflected in the SLD’s reduction. This again is an example of the inconsistency of the policy treating FY 2001 school applicants subject to the October 28” Form 486 deadline.

Appeal request:

By this appeal, Uniondale UFSD requests that the Commission instruct the SLD to process Uniondale’s late filed Form 486 for FY 2001 in a manner consistent with the treatment of other late filed Form 486s submitted by school applicants funded **after** Wave 6 in FY 2001, by all library applicants in FY 2001, and by all applicants in FY 2002. Under such a consistent “120-day rule” policy, this would be equivalent to resetting the Service Start Dates for Uniondale’s referenced FRNs from March 5, 2002, to November 5, 2001, and to adjusting the funding commitments accordingly

Respectfully submitted,

By: 
Stephen R. Draper.
Assistant Superintendent for
Business Affairs

Uniondale UFSD
933 Goodrich Street
Uniondale, **NY** 11553
516-560-8801

Dated: November 26, 2002

* Since the primary purpose of the Form 486 is to confirm receipt of service, such a change to later Service **Start** Dates should be allowed in all cases and can be accomplished either by listing the later dates in Form 486 itself or in a separate Form 500.